

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA

REBECCA MEISSE, <i>Plaintiff,</i> v. TEMPLE UNIVERSITY BOARD OF TRUSTEES, in their official capacity, KRYSYAL N. ALLEN, AMANDA J. FISH, STEPHANIE IVES- BARTOW, and DOES 1 – 10, in their individual capacities, <i>Defendants.</i>	CASE NO. COMPLAINT (1) VIOLATION OF DUE PROCESS (42 U.S.C. § 1983) (2) VIOLATION OF FIRST AMENDMENT RIGHTS (42 U.S.C. § 1983) (3) MONELL LIABILITY <u>JURY TRIAL DEMANDED</u>
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COMPLAINT

NOW COMES Plaintiff REBECCA MEISSE (“Plaintiff”), appearing *Pro Se*, with her Complaint and Demand for Jury Trial against Defendants, Temple University Board of Trustees, Krystal N. Allen, Amanda J. Fish and Stephanie Ives-Bartow (collectively “Defendants”), hereby states the following:

I. INTRODUCTION

This is a 42 U.S. Code §1983 federal civil rights case under the First, Fifth, and Fourteenth Amendments of the United States Constitution as applied to the States under the United States Constitution’s Fourteenth Amendment for the Defendants’ individual and collective personal violations under color of state of

Plaintiff's individual constitutional rights to free speech and due process under the law.

II. PARTIES

1. Plaintiff Rebecca Meisse ("Plaintiff") was an undergraduate student at Temple University ("Temple"), who was wrongfully accused of violating the Defendant's policies.

2. Defendant Temple University Board of Trustees ("Board") is the governing body of Temple University. Temple is a state and federally funded educational institution located in Philadelphia, Pennsylvania.

3. Defendant Krystal N. Allen ("Allen" or "Defendant") is now and at all relevant times to this action has been the Associate Director of Student Conduct at Temple.

4. Defendant Stephanie Ives-Bartow ("Ives-Bartow" or "Defendant") is now and at all relevant times to this action has been the Associate Vice President for Student Affairs and Dean of Students at Temple.

5. Defendant Amanda J. Fish ("Fish" or "Defendant") is now and at all relevant times to this action has been a Program Coordinator at Temple.

6. Defendants Does 1-10 ("Doe Defendants") are individuals who were employed at Temple during the time period relevant to this action. The names and job titles of the Defendants are currently unknown.

III. JURISDICTION AND VENUE

7. This action arises under the laws of the United States. Therefore, this Court has subject matter jurisdiction pursuant to 28 U.S.C. §1331.

8. This action arises under 42 U.S.C. §1983 for violations of civil rights under the First and Fourteenth Amendments of the United States Constitution.

9. This Court properly exercises personal jurisdiction over the Board who are agents of Temple which is domiciled in the State of Pennsylvania.

10. This Court properly exercises personal jurisdiction over the individual Defendants because they are domiciled within the State of Pennsylvania. The individual Defendants were employees of Temple at all relevant times herein and personally violated certain laws, rights, and policies the effects of which were felt in the State of Pennsylvania.

11. This action is properly within this judicial district pursuant to 28 U.S.C. §1391(b) because Defendants or its employees', agents' and officers' primary employment is in this district and division, and Defendants' independent and collective and unlawful violations under color of state law of Plaintiff's constitutional rights giving rise to the claims herein transpired within this district and division.

IV. FACTUAL ALLEGATIONS

12. On September 12, 2020, Philadelphia police responded to a call regarding loud music originating from an apartment located at 1822 North 16th Street in Philadelphia, Pennsylvania.

13. Plaintiff and her roommates were having a social gathering with approximately twenty friends in the backyard of their off-campus apartment.

14. Upon the arrival of the police at her apartment, Plaintiff complied with the police officers and immediately vacated everyone from the premises.

15. A police officer took Plaintiff's personal information, including her Temple University Student ID card along with her Pennsylvania driver's license.

16. Cassie Groncki, Plaintiff's roommate, was in the kitchen for the entire duration of the incident studying for an exam.

17. According to Groncki, the music from the gathering in the backyard was not loud enough to disturb her studying.

18. That same night, three other social gatherings were taking place, including the house directly behind hers.

19. All of the gatherings were playing different music simultaneously.

20. Police did not issue Plaintiff a ticket or citation for violation of any city ordinance.

21. On September 21, 2020, Allen informed Plaintiff by email that the Plaintiff she was being accused of violating Temple's Student Conduct Code.

22. Defendants accused Plaintiff of violating Temple University's "Good Neighbor" policy and "Other" published policies of Temple University.

23. On September 25, 2020, Ives-Bartow disseminated the following email to all Temple University Students:

Please know that Temple's COVID-19 protocols do not interfere with any student's First Amendment right to assemble. **To be clear, students are allowed to gather for First Amendment activities in ways that are consistent with citywide safety protocols and will not face discipline from Temple for such participation.** As an example, students who want to volunteer for the upcoming elections, participate in protests, or attend gatherings that comply with city rules, will not be subject to university discipline. (emphasis added).

24. On October 7, 2020, Plaintiff sent the following email to Fish regarding the charges alleged by the Board against her:

Amanda,

Before I decide on the next steps, I am still confused about how I allegedly violated the Temple policy in light of the Dean's statement on First Amendment issues. Are you

saying that despite the First Amendment statement from the Dean, having a gathering in compliance with the City polices still violates the Temple policy in the e-mail? Or is there some other policy I am accused of violating? As to the Good Neighbor policy, is Temple saying that the mere fact that someone complained about the noise means that we violated the ordinance?

25. On October 14, 2020, Fish sent the following reply to the Plaintiff:

Thank you for your patience as we work through this together. I appreciate your mention of Dean Ives' Statement and your thoughtful questions. For some clarification, the statement made by Dean Ives is intended to focus on protests and civic engagement related to current events in our country. The statement is not talking about parties or social gatherings. Additionally, it is not only the noise complaint that has brought about the Good Neighbor charge but also the fact that the police responded to the complaint, stated that they also witnessed loud music, and felt the need to submit that to our office.

26. On November 13, 2020, a zoom hearing was conducted, before Administrative Officer Christina Peterson. Attorneys Joe Lento and Keith Altman were present in an advisory capacity.

27. Plaintiff's attorneys were prohibited from speaking on behalf of their client and only allowed to listen during the November 13, 2020 hearing.

28. On November 18, 2020, Plaintiff was provided with the Hearing Officer's determination ("H.O. Ruling") via email which found her responsible for the charges. In the H.O. Ruling, no basis or explanation for the decision was provided.

V. CAUSES OF ACTION

COUNT ONE – VIOLATION OF DUE PROCESS (42 U.S.C. § 1983)

29. Plaintiff incorporates by reference all the preceding paragraphs in this Complaint as if fully set forth herein.

30. As a state-funded entity, the Board had an obligation to enact and enforce lawful and constitutional policies, procedures, protocols, and customs for all employees, agents, and contractors, such as the Defendants.

31. The H.O. Ruling found Plaintiff guilty of violating: (1) the Temple "Good Neighbor Policy"; and (2) "other published policies" of Temple University.

32. The Temple “Good Neighbor Policy” provides that Temple students must comply with the City of Philadelphia’s Noise Ordinance.

33. Plaintiff was not issued a citation or ticket by the police who were at the scene of the alleged incident on September 12, 2020.

34. Plaintiff did not violate the City of Philadelphia’s Noise Ordinance and, therefore, did not violate Temple’s “Good Neighbor Policy” as the definition of a violation of the “Good Neighbor Policy” is a violation of the City of Philadelphia’s Noise Ordinance.

35. Without a violation of the City of Philadelphia, a violation of Temple cannot exist per Temple’s own policies, rules and regulations.

36. The City of Philadelphia did not find that Plaintiff violated any city or municipal ordinance.

37. The Philadelphia Noise Ordinance (Phila. Code. 10-403(2))¹ states in relevant part:

(2) Sound From Residential Properties. No person shall create or cause, or permit the creation of, sound originating from a residential property audible at a distance greater than one hundred feet from the property boundary or that

¹ The need to state the City of Philadelphia’s noise ordinance is not warranted since the Plaintiff was not found guilty of violating any city ordinance. However, for factual reference it is stated herein.

exceeds 3 decibels above background level measured beyond the property boundary except for the following: [exceptions are irrelevant to this action].

38. Plaintiff was wrongfully charged by the Defendants of violating the Temple “Good Neighbor Policy”.

39. H.O. Ruling second violation assessed against Plaintiff of “other published policies” of Temple University was addressed in Ives-Bartow’s September 25, 2020, email. The email stated that the only restriction placed on the ability of Temple University students to gather off-campus was that such gatherings had to comply with Philadelphia municipal ordinances.

40. Prior to the H.O. Ruling, Plaintiff did not receive any indication from the Defendants that her September 12, 2020, gathering violated any Philadelphia municipal ordinance.

41. Defendants charging Plaintiff with a university offense for hosting a gathering that did not violate a Philadelphia municipal ordinance violates both Temple’s policies, procedures and regulations and Plaintiff’s First Amendment right to freely associate.

42. Defendants violated Plaintiff’s right to due process under the Fourteenth Amendment.

43. Defendants did not provide any reasoning or basis in the determination or otherwise for finding the Plaintiff guilty of violating the Temple “Good Neighbor Policy” and “other published policies” of Temple University.

44. Defendants were required to enter a determination/ruling on the preponderance of the evidence.

45. Defendants deprived Plaintiff of her constitutionally protected interest in her education at Temple.

46. As a result of the Defendants’ actions, Plaintiff has been damaged by being forced to expend significant time and resources appealing the alleged violation.

47. Defendants’ misconduct charges on Plaintiff’s record will adversely affect her ability to attend graduate school and find employment.

48. Defendants’ actions have resulted in significant mental and emotional distress which has affected Plaintiff’s ability to complete her educational requirements.

WHEREFORE, PREMISES CONSIDERED, Plaintiff prays that this Court:

- (a) Enter judgment against Defendants and in favor of Plaintiff for actual damages, restitution of property;
- (b) Enter judgement against Defendants requiring removal of probationary period and letter of reprimand from Plaintiff’s student file;

- (b) Enter judgment against Defendants and in favor of Plaintiff for an injunction prohibiting the Defendants' wrongful actions;
- (c) Enter judgment against Defendants and in favor of Plaintiff for all costs sustained in connection with the prosecution of this action, including attorneys' fees; and
- (e) Grant such other and further relief as justice requires.

**COUNT TWO – VIOLATION OF FIRST AMENDMENT RIGHTS
(42 U.S.C. § 1983)**

49. Plaintiff incorporates by reference all the preceding paragraphs in this Complaint as if fully set forth herein.

50. As a state and federally funded entity, Defendants had an obligation to enact and enforce lawful and constitutional policies, procedures, protocols, and customs for all employees, agents, and contractors.

51. Ives-Bartow's September 25, 2020, email states the Temple "Good Neighbor Policy".

52. The Temple "Good Neighbor Policy" states: "students are allowed to gather for First Amendment activities in ways that are consistent with citywide safety protocols and will not face discipline ~~from~~ Temple for such participation."

53. The Temple "Good Neighbor Policy" states that Temple students would not be punished for participating in gatherings that do not violate Philadelphia's municipal ordinances.

54. As a proximate result of Defendants' actions, Plaintiff suffered an arbitrary deprivation of her First Amendment rights.

55. As a result of the Defendants' actions, Plaintiff has been damaged by being forced to expend significant time and resources appealing the alleged violation.

56. Defendants' misconduct charges on Plaintiff's record will adversely affect her ability to attend graduate school and find employment.

57. Defendants' actions have resulted in significant mental and emotional distress which has affected her ability to complete her schoolwork.

WHEREFORE, PREMISES CONSIDERED, Plaintiff prays that this Court:

- (a) Enter judgment against Defendants and in favor of Plaintiff for actual damages, restitution of property;
- (b) Enter judgement against Defendants requiring removal of probationary period and letter of reprimand from Plaintiff's student file;
- (b) Enter judgment against Defendants and in favor of Plaintiff for an injunction prohibiting the Defendants' wrongful actions;
- (c) Enter judgment against Defendants and in favor of Plaintiff for all costs sustained in connection with the prosecution of this action, including attorneys' fees; and
- (d) Grant such other and further relief as justice requires.

**COUNT THREE – MONELL LIABILITY AGAINST TEMPLE
UNIVERSITY BOARD OF REGENTS**

52. Plaintiff incorporates by reference all the preceding paragraphs in this Complaint as if fully set forth herein.

53. A municipality is liable under 42 U.S.C. § 1983 if the alleged violations are attributable to its own policies, practices, and customs. Due to its status as an instrumentality of the Pennsylvania state government, Temple is considered a municipality.

54. Fish's October 14, 2020, email to Plaintiff explicated an unconstitutional policy on the part of Temple. This email stated: "the statement made by Dean Ives is intended to focus on protests and civic engagement related to current events in our country. The statement is not talking about parties or social gatherings."

55. This statement clearly describes gathering purposes that are deemed permissible by Temple and gathering purposes that are deemed impermissible by Temple as matter of policy. The clear implication of this statement is that a student would face potential punishment if they gathered for an impermissible purpose.

56. Because Fish appears to be stating that the gathering's purpose and content determines whether there is a violation, Defendants have elucidated a policy on behalf of Temple that violates the First Amendment rights of Temple's students including Plaintiff.

57. As a proximate result of the unconstitutional policy elucidated by Defendants, Plaintiff has suffered mental and emotional harm.

WHEREFORE, PREMISES CONSIDERED, Plaintiff prays that this Court:

- (a) Enter judgment against Defendants and in favor of Plaintiff for actual damages, restitution of property;
- (b) Enter judgement against Defendants requiring removal of probationary period and letter of reprimand from Plaintiff's student file;
- (b) Enter judgment against Defendants and in favor of Plaintiff for an injunction prohibiting the Defendants' wrongful actions;
- (c) Enter judgment against Defendants and in favor of Plaintiff for all costs sustained in connection with the prosecution of this action, including attorneys' fees; and
- (d) Grant such other and further relief as justice requires.

JURY TRIAL DEMANDED

Plaintiff hereby demands a trial by jury on all issues stated in this action.

Dated: July 11, 2022

Respectfully Submitted,



Rebecca Meisse, pro se Plaintiff
1421 E Columbia Avenue Apt 202
Philadelphia PA 19124
570-269-3587

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Rebecca Meisse

(b) County of Residence of First Listed Plaintiff Philadelphia County, PA
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Rebecca Meisse, Pro Se, 1421 E. Columbia Ave.,
Apt. 202, Philadelphia, PA 19124, 570-269-3587

DEFENDANTS

Temple University Board of Trustees, Krystal N. Allen,
Amanda J. Fish, Stephanie Ives-Bartow, and DOES 1-10

County of Residence of First Listed Defendant _____

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF
THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

<input type="checkbox"/> 1 U.S. Government Plaintiff	<input checked="" type="checkbox"/> 3 Federal Question (U.S. Government Not a Party)
<input type="checkbox"/> 2 U.S. Government Defendant	<input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

	PTF	DEF	PTF	DEF
Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4 <input checked="" type="checkbox"/> 4
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5 <input checked="" type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6 <input checked="" type="checkbox"/> 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance	PERSONAL INJURY	PERSONAL INJURY	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881	<input type="checkbox"/> 375 False Claims Act
<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 365 Personal Injury - Product Liability	<input type="checkbox"/> 690 Other	<input type="checkbox"/> 376 Qui Tam (31 USC 3729(a))
<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 367 Health Care/ Pharmaceutical Personal Injury Product Liability		<input type="checkbox"/> 400 State Reapportionment
<input type="checkbox"/> 140 Negotiable Instrument	<input type="checkbox"/> 320 Assault, Libel & Slander	<input type="checkbox"/> 368 Asbestos Personal Injury Product Liability		<input type="checkbox"/> 410 Antitrust
<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 330 Federal Employers' Liability			<input type="checkbox"/> 430 Banks and Banking
<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 340 Marine			<input type="checkbox"/> 450 Commerce
<input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans)	<input type="checkbox"/> 345 Marine Product Liability			<input type="checkbox"/> 460 Deportation
<input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits	<input type="checkbox"/> 350 Motor Vehicle	<input type="checkbox"/> 370 Other Fraud		<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations
<input type="checkbox"/> 160 Stockholders' Suits	<input type="checkbox"/> 355 Motor Vehicle	<input type="checkbox"/> 371 Truth in Lending		<input type="checkbox"/> 480 Consumer Credit (15 USC 1681 or 1692)
<input type="checkbox"/> 190 Other Contract	<input type="checkbox"/> Product Liability	<input type="checkbox"/> 380 Other Personal Property Damage		<input type="checkbox"/> 485 Telephone Consumer Protection Act
<input type="checkbox"/> 195 Contract Product Liability	<input type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 385 Property Damage		<input type="checkbox"/> 490 Cable/Sat TV
<input type="checkbox"/> 196 Franchise	<input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<input type="checkbox"/> Product Liability		<input type="checkbox"/> 850 Securities/Commodities/ Exchange
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS		
<input type="checkbox"/> 210 Land Condemnation	<input checked="" type="checkbox"/> 440 Other Civil Rights	Habeas Corpus:	<input type="checkbox"/> 791 Employee Retirement Income Security Act	<input type="checkbox"/> 890 Other Statutory Actions
<input type="checkbox"/> 220 Foreclosure	<input type="checkbox"/> 441 Voting	<input type="checkbox"/> 463 Alien Detainee		<input type="checkbox"/> 891 Agricultural Acts
<input type="checkbox"/> 230 Rent Lease & Ejectment	<input type="checkbox"/> 442 Employment	<input type="checkbox"/> 510 Motions to Vacate Sentence		<input type="checkbox"/> 893 Environmental Matters
<input type="checkbox"/> 240 Torts to Land	<input type="checkbox"/> 443 Housing/ Accommodations	<input type="checkbox"/> 530 General		<input type="checkbox"/> 895 Freedom of Information Act
<input type="checkbox"/> 245 Tort Product Liability	<input type="checkbox"/> 445 Amer. w/Disabilities - Employment	<input type="checkbox"/> 535 Death Penalty		<input type="checkbox"/> 896 Arbitration
<input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 446 Amer. w/Disabilities - Other	Other:	<input type="checkbox"/> 462 Naturalization Application	<input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision
	<input type="checkbox"/> 448 Education	<input type="checkbox"/> 540 Mandamus & Other	<input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 950 Constitutionality of State Statutes
		<input type="checkbox"/> 550 Civil Rights		
		<input type="checkbox"/> 555 Prison Condition		
		<input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement		
IMMIGRATION				

V. ORIGIN (Place an "X" in One Box Only)

<input checked="" type="checkbox"/> 1 Original Proceeding	<input type="checkbox"/> 2 Removed from State Court	<input type="checkbox"/> 3 Remanded from Appellate Court	<input type="checkbox"/> 4 Reinstated or Reopened	<input type="checkbox"/> 5 Transferred from Another District (specify) _____	<input type="checkbox"/> 6 Multidistrict Litigation - Transfer	<input type="checkbox"/> 8 Multidistrict Litigation - Direct File
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Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
42 U.S.C. § 1983

VI. CAUSE OF ACTION

Brief description of cause:
Violation of Due Process and of First Amendment Rights

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION
UNDER RULE 23, F.R.Cv.P.

DEMAND \$

CHECK YES only if demanded in complaint:
JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE _____

DOCKET NUMBER _____

DATE

SIGNATURE OF ATTORNEY OF RECORD

Jul 26, 2022

s/ Rebecca Meisse (pro se)

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE